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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,798	01/28/2004	Paul C. Probst	PROB100USA	3999

24339 7590 07/21/2005

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EXAMINER
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EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/766,798	<b>Applicant(s)</b> PROBST, PAUL C.	
	<b>Examiner</b> Joseph F. Edell	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 7, 11-14 is/are withdrawn from consideration. *R 7/10/05*
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/28/05</u> | 6) <input type="checkbox"/> Other: _____  |

*S.O.D*

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 7, 8, and 11-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 01 July 2005.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the power source and nodulized mechanism must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claims 1-6 and 10 are objected to because of the following informalities:
  - a. claim 1, line 3, "activates" should be removed;
  - b. claim 1, line 6, "the underside seat plastic" should read --a plastic underside of the seat--;
  - c. claim 1, line 8, "tube vibrating/oscillating mechanism" should read --vibrating/oscillating mechanism--;
  - d. claim 1, line 9, "it's affixation/integration" should read --affixation/integration of the vibrating/oscillating mechanism--;
  - e. claim 1, lines 10-11, "the metal rod infrastructure on the underside of all bicycle seats" should read --a metal rod infrastructure on the plastic underside of the seat--;
  - f. claim 2, lines 1-2, " mechanism with the tube, tube tunnel and one with the seat of claim 1" should read --seat of claim 1--;
  - g. claim 2, line 2, "power supply" should read --power source--;
  - h. claim 2, line 3, "ni-cad" should read --Ni-Cad--;

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- i. claim 3, line 1, "of claim 1 wherein said ni-cad recharging" should read --of claim 2 wherein said recharging of said Ni-Cad recharging battery--;
  - j. claim 3, line 2, "seat tunnel" should read --tube tunnel--;
  - k. claim 3, line 3, "One occasion the oscillating tube with ni-cad rechargeable batteries may be replaced when battery no longer accepts recharging." should be removed;
  - l. claim 4, lines 2-3, "motor within tube/seat vibrates at frequencies of 1100 to 18000 Rpm's/strokes per minute" should read --motor mechanism within the tube tunnel vibrates at frequencies of 1100 to 18000 strokes per minute--;
  - m. claim 5, line 2, "Rpm's/frequency" should read --frequency--;
  - n. claim 6, line 1, "Programmable/digital" should read --programmable digital--;
  - o. claim 10, lines 1-2, "may be integrated into bicycle saddles present or future" should read --the vibrating/oscillating mechanism may be integrated into bicycle saddles--;
  - p. claim 10, line 4, "characterized in type of" should read --wherein said bicycle--.
- Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 9, the phrase "to minimize the principle of "energy goes to the lower mass" ie., energy to lighter bicycle frame as it relates to the heavier rider as it is to be directed" is unclear rendering the scope of the claim indefinite.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,068,339 to Linzalone.

Linzalone discloses a bicycle saddle/seat that includes all the limitations recited in claims 1-6, 9, and 10. Linzalone shows a bicycle saddle/seat having a digital programmable seat control bar 1 (see Fig. 7), a power source 4 to drive a vibrating/oscillating motor mechanism, a vibratory/oscillating tube 2 integrated with a concave integrated molded tube tunnel affixed to or running within a plastic underside of the seat front to back, wherein the entire seat vibrates/oscillates upon activation, the power supply comprises a battery that is locked in or removable (see column 2, lines 40-47), the vibrating/oscillating motor mechanism with the seat tunnel vibrates at

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frequencies of 1100 to 18000 strokes pre minute (see abstract), programmable digital controls activate vibration frequency, amplitude, duty cycle and wavelength of the vibration, and the programmable digital controls allow automatic activation of preselected periods, controlling of the seat has sufficient battery power, and the seat has foam for a comfort and standard saddle.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to bicycle saddles/seats:

U.S. Pat. No. 5,344,437 to Pistay

U.S. Pat. No. 6,056,357 to Fukuoka

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

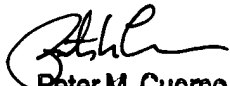
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you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 866-217-9197 (toll-free).



JE

July 18, 2005



Peter M. Cuomo  
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